

1<sup>o</sup> Mo. 41.

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JAMES H. MCKENNEY,  
CLERK.

Motion by Appt. to Advance

IN THE  
*Filed April 11, 1898.*  
Supreme Court of the United States.

October Term, 1896.

No. 280.

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I. R. HARKRADER, SHERIFF AND KEEPER OF WYTHE COUNTY  
JAIL, VIRGINIA, APPELLANT,

vs.

H. G. WADLEY, APPELLEE.

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Appeal from the Circuit Court of the United States for the  
Western District of Virginia.

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MOTION TO ADVANCE BY APPELLANT. TO BE SUB-  
MITTED ON MONDAY, APRIL 11, 1898.

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This case involves the right of a State to prosecute one accused of a crime committed within its jurisdiction and in violation alone of its laws.

The appellee was indicted May 16, 1894, in the County Court of Wythe county, Virginia, of a felony, in the embezzlement of property of the Wytheville Insurance and Banking

Company, a corporation created solely under the laws of Virginia.

In a creditors' suit instituted in the United States Circuit Court for the Western District of Virginia, to liquidate the indebtedness of said corporation, sundry injunctions were awarded, on and after June 8, 1894, to the appellee, upon his petition therein, restraining and enjoining the State of Virginia from the further prosecution of said criminal case. Subsequently the accused was released by *habeas corpus* proceedings instituted in said United States Circuit Court, thus absolutely barring the State from further prosecution.

The question, therefore, is of paramount interest, not only to this State, but to all the States of the Union. It is a question of first impression in the United States, and, so far as I have been able to ascertain, in the course of our system of jurisprudence. Whether the State can prosecute her own criminals in her own courts without injunctive interference and inhibition by the Federal Court is a matter, it is submitted, of such grave import as to merit as early a consideration as practicable by this Court.

This case has been pending in this Court since December 26, 1896, during all of which time the State's action has been withheld by the Federal proceedings complained of. An early hearing and adjudication of the matter involved is of great interest to and desired by the State.

Therefore, in view of the nature of the case and the importance necessarily attaching thereto, this motion to advance the hearing to a day as early as may be agreeable to this Court is earnestly asked and respectfully submitted.

A. J. MONTAGUE,

Attorney-General of Virginia  
and *ex officio* Counsel for Appellant.